

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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MICHAEL R. WARE,

Plaintiff,

v.

U.S. DEPARTMENT OF THE INTERIOR  
and U.S. DEPARTMENT OF JUSTICE,

Defendants.

3:07-CV-00032-LRH-VPC

ORDER

Presently before the court are Defendants' Motion to Dismiss Complaint (#5<sup>1</sup>), Plaintiff's Motion to Correct an Error or Add an Additional Party (#8), Plaintiff's Motion for Order to Show Cause (#9), Plaintiff's Motion for Default Judgment (#15), and Plaintiff's Motion to Amend Petition for Review (#21).

Upon reading Plaintiff's Petition for Review, the court is uncertain whether it has subject matter jurisdiction over this case. 30 U.S.C. § 1276(a)(1) provides that "[a]ny action by the Secretary [of the Interior] promulgating national rules or regulations . . . shall be subject to judicial review in the United States District Court for the District of Columbia Circuit." Plaintiff's Petition for Review seeks relief "in the form of a denial of any revision to the 1980 [43 C.F.R. §] 3809 final rule, and an edict to take a second look at the Patriot Act in regards to mineral development, and to

<sup>1</sup>Refers to the court's docket

1 develop and establish a fairer, flexible, and more useful standard for the surface management of  
2 mineral development.” (Petition for Review (#4) at ¶ 5.) Thus, the crux of Plaintiff’s petition  
3 appears to seek review of the regulations promulgated by the Secretary of the Interior,<sup>2</sup> and it would  
4 appear Plaintiff should have filed this case in the United States District Court for the District of  
5 Columbia. As such, the court requests briefing by the parties regarding whether this court has  
6 subject matter jurisdiction over the present case.

7 IT IS THEREFORE ORDERED that Defendants are granted 20 days to file an opening  
8 brief. Plaintiff is granted 15 days to respond, and Defendants are granted 10 days to file a reply.

9 IT IS SO ORDERED.

10 DATED this 8<sup>th</sup> day of July 2008



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13 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE  
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25 <sup>2</sup>While Plaintiff has also submitted an “Amended Petition for Review” (#25), this petition seeks  
26 substantially the same relief.